# UNITED STATES PATENT AND TRADEMARK OFFICE

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/483,745 | 01/17/2000 | Loredana Abramo | Abramo-1 | 8778 |

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| EXAMINER |
|---|
| HUYNH, CONG LAC T |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2178 | |

DATE MAILED: 05/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

| Office Action Summary | Application No. 09/483,745 | Applicant(s) ABRAMO, LOREDANA |
|---|---|---|
| | Examiner Cong-Lac Huynh | Art Unit 2178 |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on <u>08 March 2005</u>.

2a)☒ This action is **FINAL**.  2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) <u>1-12 and 15-22</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-12 and 15-22</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All  b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

# DETAILED ACTION

1.      This action is responsive to communications: amendment filed 3/8/05 to the

application filed on 1/17/00.

2.      Claims 1-12, 15-22 are pending in the case.  Claims 1, 7, 15, and 19 are

independent claims.

### Claim Rejections - 35 USC § 103

3.      The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

4.      Claims 1-12, 15-22 remain rejected under 35 U.S.C. 103(a) as being

unpatentable over in Bellamy, Jr. et al. (US Pat No. 6,259,907 B1, 7/10/01, filed

11/30/99) view of Probert, Jr. et al. (US Pat No. 6,549,918 B1, 4/15/03, filed 9/21/98).


Regarding independent claim 1, Bellamy discloses:

- receiving raw switch data from a digital switching system, the raw switch data is

    stored by the digital switching system in a switch database (figure 1, col 5, line 59

    to col 6, line 4)

- storing the raw cellular information in the switch database in the forms of tables

    (col 6, lines 6-23)

Bellamy does not disclose:

- converting said raw data into a format compatible with a predefined spreadsheet program

- outputting converted data to and storing said converted data in at least one predefined workbook of said spreadsheet program

Probert discloses:

- converting said raw data into a format compatible with a predefined spreadsheet program (figure 2 and col 8, lines 17-59: the network system includes the dynamic conversion filter driver to *convert data from one format to another*, including providing data *in spreadsheet format* where the data to be converted is from the server)

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to have combined Probert into Bellamy since Probert discloses the benefit of converting data in one format to the spreadsheet format applied in the network system, providing the advantage to incorporate into Bellamy for converting the raw data stored in the switch database the table format in Bellamy into the spreadsheet format. Bellamy and Probert do not disclose outputting converted data to and storing said converted data in at least one predefined workbook of said spreadsheet program. However, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to have modified Bellamy and Probert to include said outputting and storing features since it was well known in the art that once the data is converted into a format such as spreadsheet, the data is displayed at the client, which is a form of outputting data, and the data is stored in the memory for later use. The combination of

the outputting and storing features to Bellamy and Probert would help providing and

checking data when needed and keeping the received data for later use.


Regarding claim 2, which is dependent on claim 1, Bellamy discloses:

- prior to said receiving, converting and outputting steps, installing said digital

  switch (figure 1: the cellular switch download database in the service control

  point implies that the digital switch is installed before receiving, converting and

  outputting steps since the digital switch must be installed so that there is switch

  data to be stored in the switch database)

- performing said receiving, converting and outputting steps as part of a New

  Product Introduction test (col 1, lines 27-49)


Regarding claim 3, which is dependent on claim 1, Bellamy discloses:

- prior to said receiving, converting and outputting steps, installing said digital

  switch (figure 1: the cellular switch download database in the service control

  point implies that the digital switch is installed before receiving, converting and

  outputting steps since the digital switch must be installed so that there is switch

  data to be stored in the switch database)

- performing said receiving, converting and outputting steps as part of a Customer

  Acceptance test (col 1, lines 50-58)


Regarding claim 4, which is dependent on claim 1, Bellamy discloses:

- using the output of said converter as a layout, preparing scripts containing Database Modification Commands (col 5, line 59 to col 6, line 23 and col 3, lines 1-10: providing scripts for modifying the retrieved switch data in the switch database into a standardized format)

- transferring said scripts to said digital switch (col 5, lines 59-67: the fact that the scripts are executed and cause data from the cellular switches to be periodically downloaded to the cellular switch download database implies that the scripts are transferred to the digital switch to be executed)

- via said digital switch, executing said scripts to modify a switch database associated the raw switch data (col 5, lines 59-67)

Claims 5-6 include the same limitations as in claim 4, and are rejected under the same rationale.

Independent claim 7 is for a system of claim 12, and is rejected under the same rationale.

Regarding claim 8, which is dependent on claim 7, Bellamy and Probert do not explicitly disclose the operation of said data receiver, data converter and data output device are adapted to be triggered via a user's "Make Workbook" command. However, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to have modified Probert to include the user's Make Workbook command since it

was well known that spreadsheet has the command such as AutoFormat for formatting

a workbook, which is a form of the Make Workbook command.

Regarding claim 9, which is dependent on claim 1, Bellamy discloses that the switch

data includes testing data, which is one of hardware change data, software change

data, switching activity data, *testing data*, troubleshooting data, and new product

installation data (**col 3, lines 37-52**: since the retrieved data from the cellular telephone

switches is used for analyzing, preventing, and detecting fraud or unauthorized use

associated with cellular telephone calls, such data must include testing data).

Regarding claim 10, which is dependent on claim 1, Bellamy further discloses that the

raw switch data includes recent change and verify data (**col 3, lines 37-52**: detecting

fraud and unauthorized use associated with cellular telephone calls via the switch data

implies that the switch data includes recent change and verify data).

Claims 11-12, which are dependent on claim 7, include the same limitations as in claims

9-10, and are rejected under the same rationale.

Regarding independent claim 15, Bellamy discloses:

-   receiving raw switch data from a digital switch (figure 1, col 5, line 59 to col 6, line

    4)

Bellamy does not disclose:

- converting said raw data into a format compatible with a predefined spreadsheet program

- outputting converted data to and storing said converted data in at least one predefined workbook of said spreadsheet program

Probert discloses:

- converting said raw data into a format compatible with a predefined spreadsheet program (figure 2 and col 8, lines 17-59: the network system includes the dynamic conversion filter driver to *convert data from one format to another*, including providing data *in spreadsheet format* where the data to be converted is from the server)

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to have combined Probert into Bellamy since Probert discloses the benefit of converting data in one format to the spreadsheet format applied in the network system, providing the advantage to incorporate into Bellamy for converting the raw data stored in the switch database the table format in Bellamy into the spreadsheet format. Bellamy and Probert do not disclose outputting converted data to and storing said converted data in at least one predefined workbook of said spreadsheet program. However, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to have modified Bellamy and Probert to include said outputting and storing features since it was well known in the art that once the data is converted into a format such as spreadsheet, the data is displayed at the client, which is a form of outputting data, and the data is stored in the memory for later use. The combination of

the outputting and storing features to Bellamy and Probert would help providing and

checking data when needed and keeping the received data for later use.

Regarding claim 16, which is dependent on claim 15, Bellamy discloses:

- using the output of said converter as a layout, preparing scripts containing

  Database Modification Commands (col 5, line 59 to col 6, line 23 and col 3, lines

  1-10: providing scripts for modifying the retrieved switch data in the switch

  database into a standardized format)

- transferring said scripts to said digital switch (col 5, lines 59-67: the fact that the

  scripts are executed and cause data from the cellular switches to be periodically

  downloaded to the cellular switch download database implies that the scripts are

  transferred to the digital switch to be executed)

- via said digital switch, executing said scripts to modify a switch database

  associated the raw switch data (col 5, lines 59-67)

Regarding claim 17, which is dependent on claim 15, Bellamy discloses that the switch

data includes testing data, which is one of hardware change data, software change

data, switching activity data, *testing data*, troubleshooting data, and new product

installation data (**col 3, lines 37-52**: since the retrieved data from the cellular telephone

switches is used for analyzing, preventing, and detecting fraud or unauthorized use

associated with cellular telephone calls, such data must include testing data).

Regarding claim 18, which is dependent on claim 15, Bellamy further discloses that the raw switch data includes recent change and verify data (**col 3, lines 37-52**: detecting fraud and unauthorized use associated with cellular telephone calls via the switch data implies that the switch data includes recent change and verify data).

Claims 19, 21-22 are for an apparatus of method claims 15-18, and are rejected under the same rationale.

Claim 20 includes the same limitation of apparatus claim 8, and is rejected under the same rationale.

### *Response to Amendment*

5.    The declaration filed on 3/8/05 37 CFR 1.131 has been considered but is ineffective to overcome the Bellamy reference (6,259,907).

Though the evidence submitted in the declaration showing the conception of the invention is sufficient, the evidence submitted to establish diligence from a date prior to the date of reduction to practice of the Bellamy reference 11/30/99 to either a constructive reduction to practice or an actual reduction to practice of the invention is insufficient.

The declaration fails to provide a timeline with details of the facts where the invention had been prepared at least prior 11/30/99, the effective filing date of Bellamy reference, to the filing date of the invention 1/17/00.  Exhibits B-D are not enough evidence of due diligence since the exhibits do not provide continuing facts of practicing the invention.

Applicants must show how the evidence supports the diligence from prior the effective

date of the reference 11/30/99 to the filing date of the application. *An applicant **must***

***account for the entire period during which diligence is required.*** *Gould v.*

*Schawlow, 363 F.2d 908, 919, 150 USPQ 634, 643 (CCPA 1966) (Merely stating that*

***there were no weeks or months that the invention was not worked on is not***

***enough.***); *In re Harry, 333 F.2d 920, 923, 142 USPQ 164, 166 (CCPA 1964)*

*(**statement that the subject matter "was diligently reduced to practice" is not a***

***showing but a mere pleading**). **A 2-day period lacking activity has been held to be***

***fatal.*** *In re Mulder, 716 F.2d 1542, 1545, 219 USPQ 189, 193  (Fed. Cir. 1983) (37 CFR*

*1.131 issue); Fitzgerald v. Arbib, 268 F.2d 763, 766, 122 USPQ 530, 532 (CCPA 1959)*

*(Less than 1 month of inactivity during critical period. Efforts to exploit an invention*

*commercially do not constitute diligence in reducing it to practice. An actual reduction to*

*practice in the case of a design for a three-dimensional article requires that it should be*

*embodied in some structure other than a mere drawing.); Kendall v. Searles, 173 F.2d*

*986, 993, 81 USPQ 363, 369 (CCPA 1949) (**Diligence requires that applicants must***

***be specific as to <u>dates and facts</u>**.).  **The period during which diligence is required***

***must be accounted for by either affirmative acts or acceptable excuses.*** *Rebstock*

*v. Flouret, 191 USPQ 342, 345 (Bd. Pat. Inter.  1975); Rieser v. Williams, 225 F.2d 419,*

*423, 118 USPQ 96, 100 (CCPA 1958) (Being last to reduce to practice, party cannot*

*prevail unless he has shown that he was first to conceive and that he exercised*

*reasonable diligence during the critical period from just prior to opponent's entry into the*

*field); Griffith v. Kanamaru, 816 F.2d 624, 2 USPQ2d 1361 (Fed. Cir. 1987) (Court*

*generally reviewed cases on excuses for inactivity including vacation extended by ill*

*health and daily job demands, and held lack of university funding and personnel are not*

*acceptable excuses; Anderson v. Crowther, 152 USPQ 504, 512 (Bd. Pat. Inter. 1965)*

*(preparation of routine periodic reports covering all accomplishments of the laboratory*

*insufficient to show diligence).* See MPEP 2138.06.


### Conclusion

6.      Applicant's amendment necessitated the new ground(s) of rejection presented in

this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37

CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the date of this final action.


7.      The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure.

Gupta et al. (US Pat No. 6,154,748, 11/28/00, filed 4/7/98).

Grealish et al. (US Pat No. 6,711,715 B1, 3/23/04, filed 8/27/99).

8.  Any inquiry concerning this communication or earlier communications from the
examiner should be directed to Cong-Lac Huynh whose telephone number is 571-272-
4125. The examiner can normally be reached on Mon-Fri (8:30-6:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's
supervisor, Stephen Hong can be reached on 571-272-4124. The fax phone number for
the organization where this application or proceeding is assigned is 571-273-4125.

Information regarding the status of an application may be obtained from the
Patent Application Information Retrieval (PAIR) system. Status information for
published applications may be obtained from either Private PAIR or Public PAIR.
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For more information about the PAIR system, see http://pair-direct.uspto.gov. Should
you have questions on access to the Private PAIR system, contact the Electronic
Business Center (EBC) at 866-217-9197 (toll-free).

Cong-Lac Huynh
Examiner
Art Unit 2178
5/23/05